

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION**

**ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R7-2007-0011  
MANDATORY MINIMUM PENALTY  
IN THE MATTER OF  
HEBER PUBLIC UTILITY DISTRICT, OWNER/OPERATOR  
MUNICIPAL WASTEWATER TREATMENT PLANT  
IMPERIAL COUNTY**

This order to assess Administrative Civil Liability (ACL) pursuant to California Water Code (CWC) Section 13385(h)(i) is issued to the Heber Public Utility District (hereinafter Discharger), based on a finding of violations of NPDES Waste Discharge Requirements (WDRs) Board Order No. 00-100 (NPDES Permit No. CA0104370).

The Executive Officer of the Colorado River Basin Regional Water Quality Control Board (Regional Board) finds the following:

1. The Discharger owns and operates a sewage collection and treatment system that provides services to the community of Heber.
2. The Discharger's wastewater treatment plant (WWTP) is a publicly owned treatment works (POTW) and discharges its effluent into the Central Drain 3-D No.1 that flows to the Alamo River, which is a tributary to the Salton Sea. The Central Drain 3-D No.1, Alamo River, and Salton Sea are waters of the United States.
3. CWC Section 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months:
  - a. Violates a WDRs effluent limitation.
  - b. Fails to file a report pursuant to Section 13260.
  - c. Files an incomplete report pursuant to Section 13260.
  - d. Violates a toxicity effluent limitation contained in the applicable WDRs where the WDRs do not contain pollutant-specific effluent limitations for toxic pollutants.
4. CWC Section 13385(i)(2) states:

"For the purpose of this Section [13385] a 'period of six consecutive months' means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date."

5. CWC Section 13385(k) states:

"In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a POTW serving a small community, as defined by subdivision (b) of Section 79084, the State Water Resources Control Board (State Water Board) or the Regional Board may elect to require the POTW to spend an equivalent amount towards the completion of a compliance project proposed by the POTW, if the State or Regional Board finds all of the following:

- (1) The compliance project is designed to correct the violations within five years.
- (2) The compliance project is in accordance with the enforcement policy of the State Water Board.

- (3) The POTW has demonstrated that it has sufficient funding to complete the compliance project.”
6. On February 19, 2002, the State Water Board adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Policy). The Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. In accordance with Section X of the Policy, among other requirements, Compliance Projects (CPs) proposed by the POTW must be designed to correct the violations in five years and also comply with the general conditions specified for CPs in the Policy.
  7. On September 13, 2000, the Regional Board adopted WDRs Order No. R7-2000-0100 (NPDES Permit No. CA0104370) for the Discharger’s WWTP.
  8. WDRs Board Order No. 00-100 includes the following effluent discharge limitations:
    - a. Effluent Limitation A.4:  
“The 24-hour hydraulic flow rate for this system shall not exceed 0.405 MGD until construction is completed on the plant expansion. Following completion of the plant expansion the 24-hour hydraulic flow rate for the system shall not exceed 0.810 MGD. The treatment plant expansion is scheduled for completion by June 14, 2001.”
    - b. Effluent Limitation A.7:  
After August 31, 2001, effluent discharged to Central Drain 3-D No. 1 shall not have an Escherichia Coli (E. Coli) concentration in excess of a log mean of Most Probable Number (MPN) of 126 MPN per 100 milliliters (based on a minimum of not less than five (5) samples for any 30-day period) nor shall any sample during any 30-day period, exceed 400 MPN per 100 milliliters.”
  9. Monitoring reports submitted by the Discharger show that the wastewater discharged from the Discharger’s WWTP has been in chronic violation of its waste discharge requirements effluent limitations cited in Finding No. 8 above.
  10. A summary of each chronic violation of Board Order No. R7-2000-0100 is contained in Attachment “A,” which is incorporated in and made a part of this Administrative Civil Liability Order No. R7-2007-0011 by reference.
  11. The total amount of the mandatory minimum penalty for the violations cited in Attachment “A” is \$9,000.
  12. On September 29, 2006, the Regional Board Assistant Executive Officer issued Administrative Civil Liability Complaint (ACLC) No. R7-2006-0068 proposing that the Discharger pay nine thousand dollars (\$9,000) in ACL (MMP) for the violations.
  13. On October 10, 2006, the Discharger proposed the implementation of a CP described in Attachment “B”, which is made a part of this Board Order by reference. The Regional Board approved this CP as proposed. The ACLC was rescinded on October 13, 2006.

14. The Regional Board has notified the Discharger and the general public of its intent to hold a hearing on this matter within 90 days from the date the Complaint was issued unless the Discharger waives its right to a hearing under CWC Section 13323(b). The Discharger waived its right to a hearing on this matter as set forth in Attachment "B".
15. The Regional Board heard and considered all comments pertaining to this matter in a public meeting.
16. Issuance of this Order is exempt from the provision of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, pursuant to CWC Section 13385, the Discharger is assessed nine thousand dollars (\$9,000) in ACL (MMP) for the violations set forth in Attachment "A". In lieu of paying an ACL in the amount of nine thousand dollars (\$9,000), the Discharger shall implement the propose CP described in Attachment "B" in accordance with the following:

1. The Discharger shall comply with the State Board Enforcement Policy relating to implementation of CPs.
2. The CP shall be implemented in accordance with the time schedule stipulated in Attachment "C", appended to and made a part of this Board Order by reference. The Regional Board Executive Officer may modify the stipulated completion date and approve an alternative completion date for each phase of the CP if he determines that a delay is necessary for a timely return of the Discharger to full and sustained compliance with its Waste Discharge Requirements, and is beyond the reasonable control of the Discharger. Under no circumstances may the completion date extend beyond 5 years from the date of this Order.
3. If the Discharger completes a stipulated phase of the CP to the satisfaction of the Executive Officer by the approved date, the corresponding portion of the ACL indicated in Attachment "C" shall be permanently suspended. Similarly, if the Discharger fails to complete any stipulated phase of the CP to the satisfaction of the Executive Officer by the approved date, and the Executive Officer has not approved an extension in the completion date, the corresponding portion of the ACL shall become due and payable by the Discharger within 30 days of being so informed in writing.
4. Previously suspended amounts do not relieve the discharger of the independent obligation to take necessary actions to achieve compliance.
5. Completion of each stipulated phase and the whole CP shall be certified in writing by the Executive Officer. No portion of the ACL shall be suspended without a written certification issued by the Executive Officer.
6. The Discharger shall implement Monitoring and Reporting Program No. R7-2007-0011 and revisions thereto.

7. The Discharger shall submit all unspent ACL amounts to the State Cleanup and Abatement Account or other fund or account as authorized by statute.

California Regional Water Quality Control Board  
Colorado River Basin Region  
Attn: Hilda Vasquez  
73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260

  
\_\_\_\_\_  
ROBERT PERDUE, Executive Officer

\_\_\_\_\_  
March 21, 2007  
Date

**ATTACHMENT "A"**

Summary of Violations of Board Order No. 00-100 and Mandatory Minimum Penalties

<b>Assessed Violation<sup>1</sup> No.</b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Amount Assessed Dollars (\$)</b>
365136	10/21/2005	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 1,600 MPN/100mL	0 <sup>2</sup>
364973	11/23/2005	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 900 MPN/100mL	0
364974	11/30/2005	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 500 MPN/100mL	0
365417	01/13/2006	Exceeded the 24-hour maximum hydraulic flow Limitation is 0.810 MGD Reported as 0.928 MGD	\$3,000
365418	01/14/2006	Exceeded the 24-hour maximum hydraulic flow Limitation is 0.810 MGD Reported as 0.972 MGD	\$3,000
407444	04/12/2006	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 16,000 MPN/100mL	\$3,000

Total: \$9,000

<sup>1</sup> California Integrated Water Quality System (CIWQS)

<sup>2</sup> This is a supporting violation

ATTACHMENT "B"



**Heber Public Utility District**

1078 Dogwood Rd., Suite 103 • P. O. Box H  
Heber, CA 92249  
TEL. (760) 482-2440 • FAX (760) 353-9951  
October 26, 2006

Directors and Officers  
ANTHONY SANCHEZ, JR.  
President

Doug Wylie  
California Regional Water  
Quality Control Board  
73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260

RE: Administrative Civil Liability Complaint No. R7-2006-00668  
Mandatory Minimum Penalty – Heber Public Utility District  
Municipal Wastewater Treatment Plant – Imperial County  
Settlement Proposal

MARTHA SOTO  
Vice President

The Heber Public Utility District (HPUD) has received your letter dated September 29, 2006 regarding the above penalty. HPUD is submitting this letter as a "settlement proposal" in lieu of the entire amount of the Assessed Civil Liability (ACL).

MARGARITO HUERTA, JR.  
Director

HPUD has taken steps to upgrade our wastewater treatment facility. The Board of Directors authorized our consultant engineer to prepare a report of the facility. This report has been completed and was presented to the Board of Directors at the regular monthly meeting on October 19, 2006. At that time the Board authorized the Design & Engineering for the "Wastewater Treatment Plant Expansion Project" (a copy of the Board's agenda is attached). Attached is the "Compliance Project Information Sheet" regarding our plans for the expansion and the conditions for compliance.

MARTIN A. NOLASCO, JR.  
Director

Sincerely,

  
John A. Jordan  
General Manager

DIANA GARCIA-RUIZ  
Director

ATTACHMENT: Compliance Project Information Sheet

JOHN A. JORDAN  
General Manager

CC: HPUD Board of Directors  
Steven Walker, Attorney  
James G. "Jack" Holt, Engineer  
file

RECEIVED  
OCT 26 2006  
REGION 7

The following information is provided for the Compliance project described below.

ACL No.: R7-2006-0068

ACL Amount: \$9,000.00

Name of Discharger Under Permit Heber Public Utility District

Contact Person: John A. Jordan

Phone (760) 482-2440

E-Mail jjordan@ivnet.org

Name of Project: Heber Public Utility District CP-2006-0068

Project Description: Regarding the exceeding of the daily flow of the Heber Public Utility District, the District has completed a "HPUD Wastewater Treatment Plant Expansion" report. The report was presented to the HPUD Board of Directors on October 19, 2006. The District authorized the Design & Engineering phase. This will take place between Nov. 2006 and Nov. 2007. The District will then review the Design & Engineering and proceed to the Bid Phase, and then the actual Construction Phase. The Construction Phase is anticipated to be completed in Aug. 2009.

GENERAL CONDITIONS FOR COMPLIANCE PROJECT (Please answer the following questions by circling your response)

1. Is the compliance project designed to bring the permit back into compliance in a timely manner and/or prevent future noncompliance. (YES) NO
2. Is the compliance project otherwise obligated to perform independent of the Administrative Civil Liability itself. (YES) NO
3. The compliance project information sheet has clearly identified project goals, costs, milestones and completion dates. (YES) NO
4. If the project is longer than one year, annual reporting requirements will be provided to the Regional Board. (YES) NO

If project is less than one year please provide the estimated project start date and completion date:

Estimated Project Start Date: Nov. 2006. Estimated Project Completion Date: Nov. 2007

If project is greater than one year please provide the following:

PROJECT GOALS, COSTS, MILESTONES AND COMPLETION DATES

If the project is longer than one year please provide the information in Item No. 3 of the General Conditions for Compliance Project: Project does not exceed 1 year.

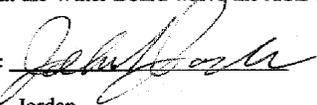
2. Milestone report due at end of year one Date Due Cost

(Portion of ACL associated with milestone)

Total Estimated Project Cost (including funds from other sources): \$1,354,429.57

3. Attached are copies of portions of the "Heber Public Utility District Wastewater Treatment Plant Expansion Report". The Executive Summary contains a projected "Schedule of Events" for the project. All timelines are approximate and may be shortened or extended according to actual completion of the phases.

HPUD is committed to the Design & Engineering of expansion project. The Design & Engineering portion of the Expansion Project is designed to correct all violations listed, and HPUD asks that the Water Board waive the ACL of \$9,000.00.

SIGNATURE:  Date: October 26, 2006

Name: John A. Jordan

Position: General Manager

HEBER PUBLIC UTILITY DISTRICT  
1078 Dogwood Rd.  
Heber, CA 92249  
REGULAR MEETING  
BOARD OF DIRECTORS  
Thursday, October 19, 2006 @ 6:00 p.m.  
AGENDA

*The District recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the District (482-2440) two working days prior to the meeting with any special requests for reasonable accommodation.*

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **PLEDEGE OF ALLEGIANCE:**
4. **APPROVAL OF MINUTES: August 17, 2006**
5. **PUBLIC PRESENTATIONS/COMMENT:**
6. **REPORTS:**
  - A. Treasurers Report for August/September 2006.
  - B. Operations Report for August/September 2006.
  - C. President and Directors Comments.
  - D. General Manager Report.
7. **OLD BUSINESS (Discussion and Possible Action)**
8. **NEW BUSINESS (Discussion and Possible Action)**
  - A. Park Ordinance - No Alcohol (Ordinance No. 220)
  - B. Approve Resolutions for Mission and Vision Statements.
  - C. CSDA Committees
  - D. Authorize Finance Manager to attend UMI Module IV on November 15-17, 2006 in San Antonio, TX.
  - E. Authorize payment to NEWest Construction Co. - application No. 11 in the amount of \$13,545.00 for the Regional Wastewater Pump Station Project.
  - F. Authorize payment to The Holt Group in the amount of \$12,600.00 for the Regional Wastewater Pump Station Project.
  - G. Authorize payment to The Holt Group in the amount of \$59,886.66 for the Water Treatment Plant Expansion engineering design.
  - H. Accept the Wastewater Facility Expansion Report and authorize payment to The Holt Group in the amount of \$3,137.00
  - I. Consideration and approval of the design engineering for the Wastewater Facility Expansion Project.
  - J. \* Approve attendance to ACWA Conference - December 5-8, 2006 in Anaheim.

A schedule of Events for the Construction of the HPUD Wastewater Treatment Plant has been prepared and is presented as follows:

SCHEDULE OF EVENTS		
Item No.	Item	Schedule
1	Wastewater Treatment Plant Engineering Report Reviewed at HPUD Board Meeting	October 19, 2006
2	HPUD Board Approves Wastewater Treatment Plant Expansion Design	November 16, 2006
3	Complete 50 percent Design Plans and 50 percent Technical Specifications (169 Calendar Days)	November 16, 2006 To May 3, 2007
4	Conduct 50 percent Review Meeting with HPUD Staff	May 4, 2007
5	Complete 90 percent Design Plans and 90 percent Technical Specifications (104 Calendar Days)	May 5, 2007 To August 16, 2007
6	Conduct 90 percent Review Meeting with HPUD Staff	August 17, 2007
7	Send 90 percent set of Plans and Specifications to Utility Companies for their review and comment (30 Calendar Days for Review and Comment)	August 20, 2007 To September 21, 2007
8	Complete 100 percent Design Plans and 100 percent Technical Specifications (81 Calendar Days)	August 20, 2007 To November 8, 2007
9	Complete Engineer's Opinion of Probable Quantity and Engineer's Opinion of Probable Cost	October 12, 2007 To November 8, 2007
10	Complete 100 percent Review Meeting with HPUD Staff	November 9, 2007
11	Obtain Approval from HPUD Board to Advertise the Project Bidding	November 15, 2007

Heber Public Utility District  
 Wastewater Treatment Plant Preliminary Engineering Report

October 2006

Item No.	Items	Schedule
12	Advertisement Project for Bidding (30 Calendar Day Bidding Period)	November 20, 2007 To January 10, 2008
13	Conduct Pre-bid Conference at the HPUD Office	December 13, 2007
14	Conduct Bid Opening at the HPUD Office	January 10, 2008
15	HPUD to Consider Award of Construction Contract	January 17, 2008
16	Processing of Contract Documents. HPUD Attorney to Review the Insurance Documents, Performance Bond and Payment Bond. Execute Contract Documents after approval by HPUD Attorney	January 18, 2008 To February 1, 2008
17	Conduct Pre-Construction Conference	January 31, 2008
18	Issue Notice-To-Proceed. Contractor to Start Construction within 10 Calendar Days	February 1, 2008
19	Project Construction (424 Calendar Days)	February 11, 2008 To April 10, 2009
20	Conduct the Final Project Inspection. Prepare Punch List of Items to Complete	April 2, 2009
21	File Notice of Completion at Imperial County Recorder's Office	April 14, 2009

**ATTACHMENT "C"**

**STIPULATED TIME SCHEDULE FOR THE IMPLEMENTATION OF COMPLIANCE PROJECT**

<b>Phase No.</b>	<b>Description of CP Phase</b>	<b>Completion Date</b>	<b>Portion of ACL That May Be Suspended</b>
<b>1</b>	<b>Wastewater Treatment Plant – Engineering Design</b>	<b>November 16, 2007</b>	<b>\$9,000</b>